

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:09-cr-00173-FDW

UNITED STATES OF AMERICA,

Plaintiff,

v.

MARCO ANTONIO COLCHADO-
GARCIA,

Defendant.

**PRELIMINARY ORDER
OF FORFEITURE
(NUNC PRO TUNC)**

In the Bill of Indictment in this case, Defendant was charged in Count One with conspiracy to possess with intent to distribute marijuana. Although the indictment did not contain a notice of forfeiture, Defendant has consented to forfeiture both in his plea agreement and at sentencing, thereby waiving the notice required by Fed. R. Crim. P. 32.2(a).

Defendant pled guilty to Count One in the Bill of Indictment; and was adjudged guilty of the offense charged in that count. Based on evidence already in the record, including the Defendant's plea and admission of the illegal acts alleged in Count One of the Bill of Indictment, the government has established the requisite nexus between the property and such offense.

At the sentencing hearing on September 9, 2010, without objection by the Defendant, the Court ordered forfeiture of the property listed below and granted the Government's request for leave to file a motion for a preliminary order of forfeiture *nunc pro tunc*, so that notice may be published and any third party claims adjudicated as provided by law.

It is therefore ORDERED as of September 9, 2010, *nunc pro tunc*:

1. Based upon the Defendant's plea of guilty, the United States is authorized to seize the following property belonging to the Defendant, and it is hereby forfeited to the United States for

disposition according to law, subject to the provisions of 21 U.S.C. § 853(n):


One Mossberg 500A 12 gauge shotgun.

2. Pursuant to 21 U.S.C. §853(n)(1), the Government shall publish notice of this order; notice of its intent to dispose of the property in such manner as the Attorney General may direct; and notice that any person, other than the Defendant, having or claiming a legal interest in any of the above-listed forfeited property must file a petition with the Court within thirty days of the final publication of notice or of receipt of actual notice, whichever is earlier. This notice shall state that the petition shall be for a hearing to adjudicate the validity of the petitioner's alleged interest in the property, shall be signed by the petitioner under penalty of perjury, and shall set forth the nature and extent of the petitioner's right, title or interest in each of the forfeited properties and any additional facts supporting the petitioner's claim and the relief sought. The United States may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in property that is the subject of this Order of Forfeiture, as a substitute for published notice as to those persons so notified.

3. Upon adjudication of all third-party interests, this Court will enter a Final Order of Forfeiture pursuant to 21 U.S.C. §853(n).

SO ORDERED.

Signed: October 19, 2010



Frank D. Whitney
United States District Judge

